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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,023	12/12/2003	Marion A. Royse	85939.000261	2455
23387	7590	10/05/2005	EXAMINER	
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			CHEVALIER, ALICIA ANN	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,023

Applicant(s)

ROYSE, MARION A.

Examiner

Alicia Chevalier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 50-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/22/04 + 5/31/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-57 are pending in the application, claims 50-57 are withdrawn from consideration.

Election/Restrictions

2. Applicant's election with traverse of Group I, claims 1-49, in the reply filed on July 19, 2005 is acknowledged. The traversal is on the ground(s) that the independent claim only recites, "surface treating at least one selected area of a particulated matrix" and would encompass chemically roughening the surface. This is not found persuasive because claim 51 specifies the surface treatment as embossing, electrically stimulating, grinding, brushing, burnishing, impacting, rolling and calendaring the polymeric, all of which do not include chemically roughening. Therefore, restriction is still proper.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 50-57 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 19, 2005.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Gopalan et al. (EP 1132243 A1).

Gopalan discloses a vehicular weatherseal (*title*) comprising a weatherseal body (*substrate, col. 3, line 41*) and particulated polymeric matrix (*contact layer, col. 3, line 41*) including a multitude of surface roughness forming particles (*col. 4, line 18*), the particulated polymeric matrix is deemed to have a first section defined by a first surface treatment to locate the particles relative to a surface of the matrix to define a first average roughness and a second section having particles located relative to the surface of the matrix to define a different second average surface roughness (*multi-modal particle size distribution, col. 5, line 48 through col. 6, line 5*).

The first section is deemed to have a coefficient of friction, a first surface texture, a first surface gloss, a first reflectivity and the second section is deemed to have a different second coefficient of friction, second surface texture, second surface gloss, and second reflectivity, since the first and second sections have different size particles in them (*figure 11*).

The weatherseal body is formed of the particulated polymeric matrix. Furthermore, the particulated polymeric matrix is deemed to be a tape.

The particles are one of ceramic, mineral, thermoplastic and thermoset and are at least one of polyethylene, UHMW polyethylene, polypropylene, polyamide, cross linked polyethylene, cross linked UHMW polyethylene, cross linked polypropylene and cross linked

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polyamide (*col. 5, lines 12-17*). The polymeric matrix is one of a thermoplastic and a thermoset (*col. 4, line 54 through col. 5, line 11*).


The first surface treatment is deemed to be a formed condition of the matrix. The particulated polymeric matrix extends along a continuous length of the weatherseal body and the second surface treatment extends along a continuous length of the particulated polymeric matrix (*figures 4-6*). The first and second surface treatment extends along intermittent lengths of the weatherseal (*figure 11*).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alicia Chevalier
9/30/05